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February 20, 2020

Via Electronic Filing

Hon. LaShann DeArcy Hall, U.S.D.J.
United States District Court Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East,
Brooklyn, New York 11201

Re: 133 Patchen Avenue Lender LLC v 133 Patchen Realty LLC, et. al.
Case No. 19-cv-01095 [E.D.N.Y.]

Dear Judge DeArcy Hall:

My office is counsel for plaintiff 133 Patchen Avenue Lender LLC ("Plaintiff") in the above-referenced matter.

On January 21, 2020, Plaintiff and defendants 133 Patchen Realty LLC and Theodore Feldheim (collectively, "Defendants") attended a discovery hearing (the "Discovery Hearing") held before Hon. Vera M. Scanlon, U.S.M.J. ("Judge Scanlon"). At the Discovery Hearing, Plaintiff requested permission to proceed with its motion for summary judgment which was filed on August 23, 2019 under Docket No. 41 (the "Motion for Summary Judgment"). As reflected in the *Minute Entry* entered on February 19, 2020 (*see* attached), Judge Scanlon ordered on the record that:

- (1) "Plaintiff is to provide the emails with the information discussed on a mutually agreeable platform by 1/24/2020";
- (2) "Plaintiff is to renew its motion for summary judgment at 41 by letter by 1/27/2020";
- (3) "Defendant to file amended opposition papers by 2/10/2020"; and
- (4) "Plaintiff may reply no later than 2/20/20".


Plaintiff timely complied with Judge Scanlon's order "to provide the emails with information discussed on a mutually agreeable platform". Plaintiff timely requested renewal of its Motion for Summary Judgment, which request was granted [ECF Dkt. No. 66].

Defendants failed to file amended opposition papers by February 10, 2020 in violation of the briefing schedule set forth by Judge Scanlon. Accordingly, Plaintiff respectfully submits that its Motion for Summary Judgment should be marked submitted without opposition.

Insofar as this Court treats Defendants' previously filed opposition papers [ECF Dkt. No. 45] as Defendants' response to Plaintiff's Motion for Summary Judgment, though Defendants have made no such request, Plaintiff respectfully re-submits its previously filed reply papers [ECF Dkt. No. 47] in further support of its Motion for Summary Judgment.

Thank you for Your Honor's attention and consideration to this matter.

Respectfully submitted,


Thomas A. Hooker

Cc: Via Electronic Filing
Hon. Vera M. Scanlon, U.S.M.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East,
Brooklyn, New York 11201

Joseph M. Claro PLLC
Attorneys for defendants 133 Patchen Realty LLC and Theodore Feldheim
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New York City Law Department
Office of the Corporation Counsel
Attorneys for New York City Environmental Control Board
100 Church Street
New York, New York 10007

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:19-cv-01095-LDH-VMS**

133 Patchen Avenue Lender LLC v. 133 Patchen Realty LLC et al
Assigned to: Judge LaShann DeArcy Hall
Referred to: Magistrate Judge Vera M. Scanlon
Cause: 28:1345 Foreclosure

Date Filed: 02/25/2019
Jury Demand: None
Nature of Suit: 220 Real Property:
Foreclosure
Jurisdiction: Diversity

Plaintiff

Capital One, National Association
TERMINATED: 06/18/2019

represented by **Jerold C. Feuerstein**
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TERMINATED: 04/17/2019
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Plaintiff

133 Patchen Avenue Lender LLC

represented by **Jerold C. Feuerstein**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joseph Manuel Claro
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V.

Defendant

133 Patchen Realty LLC

represented by **Joseph Manuel Claro**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
Richard A. Rosenzweig, Esq.
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917-301-1868
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TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Defendant

Theodore Feldheim

represented by **Joseph Manuel Claro**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Defendant

**New York City Environmental Control
Board**

represented by **Holly Rachel Gerstenfeld**
New York City Law Department
Office of the Corporation Counsel
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Interested Party

133 Patchen Avenue Lender LLC
successor-in-interest and assignee of
plaintiff, Capital One, National
Association
c/o Kriss & Feuerstein LLP
360 Lexington Avenue, 12th Floor
New York, NY 10017

represented by **Jerold C. Feuerstein**
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LEAD ATTORNEY
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Joseph Manuel Claro
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael Capellupo
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Claimant

Theodore Feldheim

represented by **Joseph Manuel Claro**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Counter Claimant

133 Patchen Realty LLC

represented by **Joseph Manuel Claro**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

V.

Counter Defendant

Capital One, National Association
TERMINATED: 06/18/2019

represented by **Joseph Lubertazzi, Jr.**
(See above for address)
TERMINATED: 04/17/2019
ATTORNEY TO BE NOTICED

Counter Claimant

Theodore Feldheim

represented by **Joseph Manuel Claro**

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Counter Claimant

133 Patchen Realty LLC

represented by **Joseph Manuel Claro**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

V.

Counter Defendant

133 Patchen Realty LLC

represented by **Joseph Manuel Claro**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Counter Defendant

Theodore Feldheim

represented by **Joseph Manuel Claro**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard A. Rosenzweig
(See above for address)
TERMINATED: 09/09/2019
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/25/2019	<u>1</u>	COMPLAINT against All Defendants filing fee \$ 400, receipt number ANYEDC-11226778 Was the Disclosure Statement on Civil Cover Sheet completed -Yes,, filed by Capital One, National Association. (Attachments: # <u>1</u> Civil Cover Sheet) (Lubertazzi, Joseph) (Entered: 02/25/2019)
02/25/2019	<u>2</u>	Corporate Disclosure Statement by Capital One, National Association identifying Corporate Parent Capital One Financial Corporation for Capital One, National

		Association. (Lubertazzi, Joseph) (Entered: 02/25/2019)
02/25/2019		Case assigned to Judge Jack B. Weinstein and Magistrate Judge Vera M. Scanlon. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Bowens, Priscilla) (Entered: 02/25/2019)
02/25/2019	3	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Bowens, Priscilla) (Entered: 02/25/2019)
02/25/2019	4	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Bowens, Priscilla) (Entered: 02/25/2019)
03/03/2019	5	Proposed Summons. Re 1 Complaint, by Capital One, National Association (Lubertazzi, Joseph) (Entered: 03/03/2019)
03/03/2019	6	Proposed Summons. Re 1 Complaint, by Capital One, National Association (Lubertazzi, Joseph) (Entered: 03/03/2019)
03/03/2019	7	Proposed Summons. Re 1 Complaint, by Capital One, National Association (Lubertazzi, Joseph) (Entered: 03/03/2019)
03/04/2019	8	Summons Issued as to 133 Patchen Realty LLC, Theodore Feldheim, New York City Environmental Control Board. (Barrett, C) (Entered: 03/04/2019)
03/14/2019	9	COURT ORDER WHEN NEW CIVIL CASE FILED AND COURT'S READING OF COMPLAINT. Treat under Local Rule 72.2. My case manager is to set a conference before me ASAP after appearance. Respectfully referred to the Magistrate Judge for: expedited discovery; settlement; mediation referral and/or court annexed arbitration. Ordered by Judge Jack B. Weinstein on 3/5/2019. (Barrett, C) (Entered: 03/19/2019)
03/20/2019		SCHEDULING ORDER: An in person Status Conference is set for 4/3/2019 at 10:30 AM in Courtroom 13A South before Magistrate Judge Vera M. Scanlon. Ordered by Magistrate Judge Vera M. Scanlon on 3/20/2019. (Quinlan, Krista) (Entered: 03/20/2019)
04/02/2019	10	MOTION for Extension of Time to File Answer by Capital One, National Association (Lubertazzi, Joseph) Modified on 4/3/2019 to add motion. (Quinlan, Krista). (Entered: 04/02/2019)
04/02/2019	11	SUMMONS Returned Executed by Capital One, National Association. 133 Patchen Realty LLC served on 3/8/2019, answer due 3/29/2019. (Lubertazzi, Joseph) (Entered: 04/02/2019)
04/02/2019	12	SUMMONS Returned Executed by Capital One, National Association. Theodore Feldheim served on 3/8/2019, answer due 3/29/2019. (Lubertazzi, Joseph) (Entered: 04/02/2019)
04/02/2019	13	SUMMONS Returned Executed by Capital One, National Association. New York City Environmental Control Board served on 3/8/2019, answer due 3/29/2019. (Lubertazzi, Joseph) (Entered: 04/02/2019)

04/03/2019	14	ORDER granting 10 Motion for Extension of Time to Answer as to 133 Patchen Realty LLC and Theodore Feldheim. Defendants' deadline to answer the Complaint or otherwise move is extended to 4/12/2019. RE-SCHEDULING ORDER: Counsel are advised that the Initial Conference currently scheduled for 4/3/2019 has been rescheduled to 4/23/2019 at 12:30 PM in Courtroom 13A South before Magistrate Judge Vera M. Scanlon. Plaintiff's counsel is directed to confirm with Defendants' counsel that all necessary participants are aware of this conference. Counsel must complete the attached joint proposed scheduling order and file on ECF no later than 4/18/2019. Any requests for adjournment must be made in writing on notice to opposing parties, and must disclose whether all parties consent. No request for adjournment will be considered unless made at least forty-eight (48) hours before the scheduled conference unless in an emergency. Ordered by Magistrate Judge Vera M. Scanlon on 4/3/2019. (Quinlan, Krista) (Entered: 04/03/2019)
04/04/2019	15	ANSWER to 1 Complaint, , COUNTERCLAIM against All Plaintiffs by Theodore Feldheim, 133 Patchen Realty LLC. (Rosenzweig, Richard) (Entered: 04/04/2019)
04/16/2019	16	MOTION to Substitute Attorney by Capital One, National Association. (Feuerstein, Jerold) (Entered: 04/16/2019)
04/16/2019	17	NOTICE of Appearance by Holly Rachel Gerstenfeld on behalf of New York City Environmental Control Board (aty to be noticed) (Gerstenfeld, Holly) (Entered: 04/16/2019)
04/17/2019		ORDER granting 16 Motion to Substitute Attorney. Attorney Joseph Lubertazzi, Jr terminated. Ordered by Magistrate Judge Vera M. Scanlon on 4/17/2019. (Quinlan, Krista) (Entered: 04/17/2019)
04/18/2019	18	NOTICE of Appearance by Michael Capellupo on behalf of 133 Patchen Avenue Lender LLC successor-in-interest and assignee of plaintiff, Capital One, National Association (aty to be noticed) (Capellupo, Michael) (Entered: 04/18/2019)
04/18/2019	19	Proposed Scheduling Order <i>/Initial Scheduling Order</i> by 133 Patchen Avenue Lender LLC successor-in-interest and assignee of plaintiff, Capital One, National Association (Capellupo, Michael) (Entered: 04/18/2019)
04/23/2019		Minute Entry for proceedings held before Magistrate Judge Vera M. Scanlon:Initial Conference Hearing held on 4/23/2019 in Courtroom 13A South. Michael Capellupo appearing for Plaintiff. Mr. Sattielle and Holly Gerstenfeld appearing for Defendants. See separate docket entry for Order issuing from this proceeding. (FTR Log #12:42-12:56.) (Quinlan, Krista) (Entered: 04/24/2019)
04/24/2019	20	SCHEDULING ORDER: As discussed during the 4/23/2019 conference (see attached order for additional detail and deadlines), on or before 6/14/2019, the Parties will initiate any dispositive motions in accordance with the Individual Rules of the District Judge. Plaintiff does not need any additional documents or evidence. Defendant was unable to identify any discovery needed. Plaintiff's counsel to update case to reflect new loan holder. Counsel to confirm their notice of appearance is correct on the docket. Only counsel of record may appear. Per diem counsel may not appear. Ordered by Magistrate Judge Vera M. Scanlon on 4/23/2019. (Quinlan, Krista) (Entered: 04/24/2019)
04/24/2019	21	<i>Reply to Counterclaim/</i> ANSWER to 15 Answer to Complaint, Counterclaim by 133 Patchen Avenue Lender LLC successor-in-interest and assignee of plaintiff, Capital One, National Association. (Feuerstein, Jerold) (Entered: 04/24/2019)
04/24/2019	22	AFFIDAVIT of Service for Reply of Counterclaim served on counsel of record for all appearing parties by filing same on the Eastern District of New York Electronic Filing System on 4/24/2019, filed by 133 Patchen Avenue Lender LLC successor-in-interest and

		assignee of plaintiff, Capital One, National Association. (Feuerstein, Jerold) (Entered: 04/24/2019)
06/11/2019	23	Letter MOTION for Extension of Time to File <i>/Postpone the date of filing the Motion for Summary Judgment</i> , Letter MOTION to Amend/Correct/Supplement 1 Complaint, , Letter MOTION to Substitute Party <i>133 Patchen Avenue Lender LLC as Plaintiff</i> by 133 Patchen Avenue Lender LLC successor-in-interest and assignee of plaintiff, Capital One, National Association. (Attachments: # 1 Stipulation and Order Allowing Plaintiff's Successor in Interest to File a First Amended Complaint) (Capellupo, Michael) (Entered: 06/11/2019)
06/18/2019		ORDER granting 23 Motion for Extension of Time to File; granting 23 Motion to Amend/Correct/Supplement; granting 23 Motion to Substitute Party. The Parties' Stipulation at [23-1] is so-ordered. The Clerk of the Court is respectfully requested to terminate Capital One, National Association and Capital One, National Association on the docket, and to designate 133 Patchen Avenue Lender LLC as Plaintiff. Ordered by Magistrate Judge Vera M. Scanlon on 6/18/2019. (Oliner, Daniel). Modified on 6/18/2019 to correct typo (Oliner, Daniel). (Entered: 06/18/2019)
06/20/2019	24	AMENDED COMPLAINT against 133 Patchen Realty LLC, Theodore Feldheim, New York City Environmental Control Board, filed by 133 Patchen Avenue Lender LLC. (Attachments: # 1 Exhibit A - Bluestone Mortgage, # 2 Exhibit B - Bluestone Assignment, # 3 Exhibit C - Note, # 4 Exhibit D - Gap Note, # 5 Exhibit E - Guaranty, # 6 Exhibit F - CEMA, # 7 Exhibit G - Gap Mortgage, # 8 Exhibit H - Assignment of Rents, # 9 Exhibit I - Plaintiff Assignment, # 10 Exhibit J - Assignment of Assignmet of Rents, # 11 Exhibit K - UCC Statement, # 12 Exhibit L - UCC Amendment) (Feuerstein, Jerold) (Entered: 06/20/2019)
06/21/2019	25	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Feuerstein, Jerold) (Entered: 06/21/2019)
06/21/2019	26	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Feuerstein, Jerold) (Entered: 06/21/2019)
06/21/2019	27	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Feuerstein, Jerold) (Entered: 06/21/2019)
07/03/2019	28	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Bonneville, Michael) (Entered: 07/03/2019)
07/03/2019	29	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Bonneville, Michael) (Entered: 07/03/2019)
07/03/2019	30	Proposed Summons. Re 24 Amended Complaint,, by 133 Patchen Avenue Lender LLC (Bonneville, Michael) (Entered: 07/03/2019)
07/10/2019	31	<i>answer to amended complaint</i> ANSWER to 24 Amended Complaint,, , COUNTERCLAIM against 133 Patchen Realty LLC, Theodore Feldheim by Theodore Feldheim, 133 Patchen Realty LLC. (Rosenzweig, Richard) (Entered: 07/10/2019)
07/11/2019	32	Summons Issued as to 133 Patchen Realty LLC, Theodore Feldheim, New York City Environmental Control Board. (Barrett, C) (Entered: 07/11/2019)
07/12/2019	33	AFFIDAVIT of Service for Amended Complaint served on 133 Patchen Realty LLC, Theodore Feldheim, The New York City Environmental Control Board, Holly Rachel Gerstendeld, Esq., and Richard A. Rosenzweig, Esq. on 7/12/19 via regular, first class mail, filed by 133 Patchen Avenue Lender LLC. (Bonneville, Michael) (Entered: 07/12/2019)
07/18/2019	34	AFFIDAVIT of Service for answer served on plaintiff attorney on 7/16/19, filed by 133

		Patchen Realty LLC, Theodore Feldheim. (Rosenzweig, Richard) (Entered: 07/18/2019)
07/18/2019	35	<i>Reply to Counterclaim/ ANSWER to 31 Answer to Amended Complaint, Counterclaim by 133 Patchen Avenue Lender LLC. (Capellupo, Michael) (Entered: 07/18/2019)</i>
07/23/2019	36	AFFIDAVIT/AFFIRMATION <i>aff of service of answer to amended complaint, on corp counsel</i> by 133 Patchen Avenue Lender LLC successor-in-interest and assignee of plaintiff, Capital One, National Association (Rosenzweig, Richard) (Entered: 07/23/2019)
07/25/2019		STATUS REPORT ORDER: Counsel are to submit a joint letter as to whether, in light of the amended complaint and counterclaims, any discovery is needed. The letter is to be filed by 8/2/2019. Ordered by Magistrate Judge Vera M. Scanlon on 7/25/2019. (Quinlan, Krista) (Entered: 07/25/2019)
07/29/2019	37	Letter to <i>Hon. Vera M. Scanlon, U.S.M.J. in response to Status Report Order dated July 25, 2019</i> by 133 Patchen Avenue Lender LLC (Capellupo, Michael) (Entered: 07/29/2019)
07/31/2019	38	Letter by 133 Patchen Realty LLC (Rosenzweig, Richard) (Entered: 07/31/2019)
08/01/2019	39	AFFIDAVIT of Service for /Affidavit of Posting of <i>RPAPL 1303 Tenant Foreclosure Notice posted on each entrance and exit on July 20, 2019 at 12:01 PM at 133 Patchen Avenue, Brooklyn, NY, which notice was printed on a pink paper pursuant to RPAPL 1303 on ANY AND ALL DOES at 133 Patchen Avenue, Brooklyn, NY</i> , filed by 133 Patchen Avenue Lender LLC. (Bonneville, Michael) (Entered: 08/01/2019)
08/02/2019		SCHEDULING ORDER: A Telephone Conference is set for 8/6/2019 at 2:30 PM before Magistrate Judge Vera M. Scanlon. Plaintiff's counsel is to organize a conference call, then phone Chambers at (718) 613-2300 with all counsel on the line. Ordered by Magistrate Judge Vera M. Scanlon on 8/2/2019. (Shanies, Rachel) (Entered: 08/02/2019)
08/06/2019		Minute Entry for proceedings held before Magistrate Judge Vera M. Scanlon:Telephone Conference held on 8/6/2019 in Courtroom 13A South. Michel Capellupo appearing for Plaintiff. Richard Rosenzweig appearing for Defendants. See separate docket entry for Order issuing from this proceeding. (FTR Log #2:47-3:02.) (Quinlan, Krista) (Entered: 08/08/2019)
08/06/2019	40	SCHEDULING ORDER: As discussed during the 8/6/2019 conference (see attached order for additional detail and deadlines), by the week of 8/19/2019, counsel will inspect the original documents. (tentatively scheduled 8/20/2019 at 10:00 AM at Plaintiff's office). By 8/23/2019, counsel will commence summary judgment practice. Ordered by Magistrate Judge Vera M. Scanlon on 8/6/2019. (Quinlan, Krista) (Entered: 08/08/2019)
08/23/2019	41	MOTION for Summary Judgment by 133 Patchen Avenue Lender LLC. (Attachments: # 1 Affidavit Attorney Affirmation, # 2 Affidavit Affidavit in Support, # 3 Exhibit Exhibit A - Amended Complaint, # 4 Exhibit Exhibit B - Affidavits of Service, # 5 Exhibit Exhibit C - Answer, # 6 Exhibit Exhibit D - Reply to Counterclaim, # 7 Exhibit Exhibit E - August 6 Order, # 8 Exhibit Exhibit F - Assignment of Claim, # 9 Exhibit Exhibit G - Water and Sewer Bill, # 10 Exhibit Exhibit H - Notice to Sell Water Lien, # 11 Exhibit Exhibit I - Tax Bill, # 12 Exhibit Exhibit J - Account Balance, # 13 Exhibit Exhibit K - Declaration of Restrictions, # 14 Exhibit Exhibit L - DOS Search Results for Plaintiff, # 15 Exhibit Exhibit M - DOS Search Results for Borrower, # 16 Exhibit Exhibit N - AOS for Initial Complaint, # 17 Exhibit Exhibit O - Listing of ECB's Address, # 18 Exhibit Exhibit P - FDIC Search Results, # 19 Exhibit Exhibit Q - Acceleration Letter, # 20 Exhibit Exhibit R - ECB Judgment Search, # 21 Exhibit Exhibit S - So Ordered Stipulation, # 22 Exhibit Exhibit T - Payment History, # 23 Memorandum in Support Memorandum in Support, # 24 Rule 56.1 Statement Rule 56.1 Statement of Facts) (Feuerstein, Jerold) (Entered: 08/23/2019)

09/05/2019	42	Letter motion <i>requesting adjournment of time to oppose motion</i> by 133 Patchen Realty LLC (Rosenzweig, Richard). Modified on 9/20/2019 to add motion (Oliner, Daniel). (Entered: 09/05/2019)
09/06/2019	43	MOTION to Substitute Attorney by 133 Patchen Realty LLC (Rosenzweig, Richard) Modified on 9/9/2019 (Quinlan, Krista). (Entered: 09/06/2019)
09/09/2019		ORDER granting 43 Motion to Substitute Attorney. Attorney Richard A. Rosenzweig terminated. Ordered by Magistrate Judge Vera M. Scanlon on 9/9/2019. (Quinlan, Krista) (Entered: 09/09/2019)
09/13/2019	44	NOTICE of Appearance by Joseph Manuel Claro on behalf of 133 Patchen Realty LLC, Theodore Feldheim (notification declined or already on case) (Claro, Joseph) (Entered: 09/13/2019)
09/16/2019	45	MEMORANDUM in Opposition , AFFIDAVIT/DECLARATION in Opposition re 41 MOTION for Summary Judgment , RULE 56.1 STATEMENT filed by 133 Patchen Realty LLC, Theodore Feldheim. (Attachments: # 1 Rule 56.1 Statement Rule 56.1 Statement, # 2 Affidavit in Opposition Affirmation in Opposition) (Claro, Joseph) (Entered: 09/16/2019)
09/20/2019		ORDER granting 42 Motion for Extension of Time to File. Defendants' motion to extend their time to file their opposition is granted, and the opposition papers filed at 45 are deemed timely-filed. Plaintiffs may file their reply papers on or before 10/18/2019. Ordered by Magistrate Judge Vera M. Scanlon on 9/20/2019. (Oliner, Daniel) (Entered: 09/20/2019)
10/03/2019	46	ORDER Setting Hearing on 41 MOTION for Summary Judgment. Hearing set for 11/12/2019 at 11:15 AM (in Courtroom 10B South). Ordered by Judge Jack B. Weinstein on 9/27/2019. (Barrett, C) (Entered: 10/03/2019)
10/18/2019	47	REPLY to Response to Motion re 41 MOTION for Summary Judgment <i>Reply Memorandum of Law</i> filed by 133 Patchen Avenue Lender LLC. (Capellupo, Michael) (Entered: 10/18/2019)
11/06/2019	48	MOTION to Compel <i>Discovery</i> by 133 Patchen Realty LLC, Theodore Feldheim. (Claro, Joseph) (Entered: 11/06/2019)
11/06/2019	49	NOTICE of Change of Address Once the filing has been made, you must login to www.pacer.gov and update your account. (Claro, Joseph) (Entered: 11/06/2019)
11/07/2019	50	ORDER Resetting Hearing on 41 MOTION for Summary Judgment. Motion Hearing set for 12/3/2019 at 11:30 AM (in Courtroom 10B South). Ordered by Judge Jack B. Weinstein on 11/7/2019. (Barrett, C) (Entered: 11/07/2019)
11/12/2019	51	NOTICE of Appearance by Thomas Alden Hooker on behalf of 133 Patchen Avenue Lender LLC (aty to be noticed) (Hooker, Thomas) (Entered: 11/12/2019)
11/12/2019	52	RESPONSE to Motion re 48 MOTION to Compel <i>Discovery</i> filed by 133 Patchen Avenue Lender LLC. (Hooker, Thomas) (Entered: 11/12/2019)
11/15/2019		ORDER granting 48 Motion to Compel. Plaintiff's responses to Defendants' document requests are improper under the 2015 Amendments to the FRCP. <i>See</i> FRCP 33(b)(4), 34(b)(2)(B) (objections must be stated with specificity); FRCP 34(b)(2)(C) (objections must clearly indicate whether responsive material has been withheld); FRCP 34(b)(2)(B) (time for production of materials must be specified in the response); <i>see also</i> <i>Fischer v. Forrest</i> , 14-cv-1304 (PAE)(AJP), 2017 WL 773694 (S.D.N.Y. Feb. 28, 2017). Plaintiff is directed to respond appropriately to Defendants' requests and provide conforming, proper responses, as well as the requested materials by 12/2/2019. If the Parties are interested in resolving this matter through mediation, they should write to the Court. The Parties are

		further directed to file a joint status report confirming discovery is complete on or before 12/9/2019. Ordered by Magistrate Judge Vera M. Scanlon on 11/15/2019. (Oliner, Daniel) (Entered: 11/15/2019)
11/18/2019	<u>53</u>	ORDER adjourning <i>sine die</i> the hearing scheduled for 12/3/2019 at 11:30 a.m. Ordered by Judge Jack B. Weinstein on 11/18/2019. (Barrett, C) (Entered: 11/19/2019)
12/05/2019	<u>54</u>	Notice of MOTION to Appoint Receiver by 133 Patchen Avenue Lender LLC. (Attachments: # <u>1</u> Affidavit in Support of David Aviram, # <u>2</u> Exhibit A - Amended Complaint (w/ Exhibit A-1 through A-12), # <u>3</u> Exhibit B - Violations, Outstanding charges, etc., # <u>4</u> Affidavit in Support Attesting to the Estimated Rent Roll, # <u>5</u> Affidavit in Support of William A. White, III, # <u>6</u> Exhibit 1 - Appraisal, # <u>7</u> Memorandum in Support) (Feuerstein, Jerold) (Entered: 12/05/2019)
12/06/2019	<u>55</u>	AFFIDAVIT/AFFIRMATION re <u>54</u> Notice of MOTION to Appoint Receiver <i>Affidavit of Service via e-filing</i> by 133 Patchen Avenue Lender LLC (Feuerstein, Jerold) (Entered: 12/06/2019)
12/09/2019	<u>56</u>	Letter <i>Joint Letter Sent Pursuant to the Court's Order Dated 11/25/19</i> by 133 Patchen Realty LLC (Claro, Joseph) (Entered: 12/09/2019)
12/09/2019	<u>57</u>	STATUS REPORT <i>Response to Defendants' Status Report</i> by 133 Patchen Avenue Lender LLC (Hooker, Thomas) (Entered: 12/09/2019)
12/09/2019	<u>58</u>	Letter <i>to Judge</i> by 133 Patchen Realty LLC (Claro, Joseph) (Entered: 12/09/2019)
12/19/2019	<u>59</u>	MOTION for Hearing by 133 Patchen Avenue Lender LLC. (Hooker, Thomas) Modified on 12/20/2019 to add motion. (Quinlan, Krista). (Entered: 12/19/2019)
12/19/2019	<u>60</u>	STIPULATION re <u>54</u> Notice of MOTION to Appoint Receiver <i>adjourning the Jan. 5, 2020 appearance to Jan. 16, 2020</i> by 133 Patchen Avenue Lender LLC (Hooker, Thomas) (Entered: 12/19/2019)
12/20/2019		ORDER granting consent <u>59</u> Motion for Hearing. At the request of the parties, a Discovery Hearing is set for 1/21/2020 at 12:00 PM in Courtroom 13A South before Magistrate Judge Vera M. Scanlon. Ordered by Magistrate Judge Vera M. Scanlon on 12/20/2019. (Quinlan, Krista) (Entered: 12/20/2019)
12/31/2019	<u>61</u>	MEMORANDUM in Opposition <i>to Plaintiff's Motion</i> filed by 133 Patchen Realty LLC, Theodore Feldheim. (Attachments: # <u>1</u> Affidavit in Opposition Affirmation in Opposition to Motion) (Claro, Joseph) (Entered: 12/31/2019)
01/07/2020	<u>62</u>	REPLY in Support re <u>54</u> Notice of MOTION to Appoint Receiver filed by 133 Patchen Avenue Lender LLC. (Feuerstein, Jerold) (Entered: 01/07/2020)
01/27/2020	<u>63</u>	Letter MOTION for Hearing re <u>41</u> MOTION for Summary Judgment by 133 Patchen Avenue Lender LLC. (Capellupo, Michael) (Entered: 01/27/2020)
02/03/2020	<u>64</u>	ORDER, The motion for appointment of a rent receiver will be heard on February 10, 2020 at 11:30 a.m. The briefing schedule shall be fixed by the Magistrate Judge if the parties cannot agree. So Ordered by Judge Jack B. Weinstein on 1/23/2020. (Lee, Tiffeny) (Entered: 02/03/2020)
02/05/2020		NOTICE of Hearing on Motion <u>54</u> Notice of MOTION to Appoint Receiver :The Motion Hearing set for 2/10/2020 is adjourned to 3/2/2020 at 10:30 AM in Courtroom 10B South before Judge Jack B. Weinstein. (Lowe, June) (Entered: 02/05/2020)
02/12/2020	<u>65</u>	ORDER OF RECUSAL. Judge Jack B. Weinstein recused. Case reassigned to Judge LaShann DeArcy Hall and Judge LaShann DeArcy Hall for all further proceedings.

		Ordered by Judge Jack B. Weinstein on 2/10/2020. (Marziliano, August) (Entered: 02/12/2020)
02/13/2020	66	ENDORSED ORDER, on 63 Letter MOTION for Hearing re 41 MOTION for Summary Judgment, Renewal Granted. I will recuse myself from this case. So Ordered by Judge Jack B. Weinstein on 2/11/2020. (Layne, Monique) (Entered: 02/13/2020)
02/14/2020		SCHEDULING ORDER: A status conference shall be held on February 20, 2020 at 1:30 p.m. in Courtroom 4H North. Ordered by Judge LaShann DeArcy Hall on 2/14/2020. (Williams, Erica) (Entered: 02/14/2020)
02/14/2020	67	Letter <i>Seeking Adjournment</i> by 133 Patchen Realty LLC, Theodore Feldheim (Claro, Joseph) (Entered: 02/14/2020)
02/18/2020		ORDER: Plaintiff's request 67 to adjourn the status conference scheduled for February 20, 2020 is GRANTED. The status conference shall be RESCHEDULED to March 5, 2020 at 2:00 p.m. The hearing on the motion 54 for a rent receiver scheduled for March 2, 2020 is ADJOURNED sine die. Ordered by Judge LaShann DeArcy Hall on 2/18/2020. (Williams, Erica) (Entered: 02/18/2020)
02/19/2020		Minute Entry for proceedings held before Magistrate Judge Vera M. Scanlon in Courtroom 13A South:Discovery Hearing held on 1/21/2020. Thomas Hooker appearing for Plaintiff. Joseph Claro appearing for Defendants. As discussed on the record, Plaintiff is to provide the emails with the information discussed on a mutually agreeable platform by 1/24/2020; Plaintiff is to renew its motion for summary judgment at 41 by letter by 1/27/2020; Defendant to file amended opposition papers by 2/10/2020; Plaintiff may reply no later than 2/20/2020. Ordered by Magistrate Judge Vera M. Scanlon on 1/21/2020. (FTR Log #11:59-12:53.) (Oliner, Daniel). Modified on 2/20/2020 to correct typographical error (Oliner, Daniel). (Entered: 02/19/2020)

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